

Prepared Foods

About this Guide

The information in this *Guide* explains how Retail Sales Tax (RST) applies to prepared foods. Please note that this *Guide* replaces the previous version dated June 2001. Revisions to previous content have been identified by a bar (|).

Prepared Foods

Definition

Prepared foods include the following items sold by eating establishments for consumption on or off the premises:

- meals, hot foods, sandwiches, salads and fruit
- prepackaged individual portions of snack cakes and pastries
- hand-scooped or machine-dispensed ice cream (machine-dispensed ice cream is a tax-exempt food product when dispensed in quantities of 1/2 litre or more)
- sundaes and milk shakes
- non-alcoholic beverages, such as coffee, tea, milk and juice.

Note:

Soft drinks are not taxable when sold with prepared foods as part of one transaction for a total charge of \$4.00 or less, excluding the federal Goods and Services Tax (GST). When soft drinks are sold with prepared foods as part of one transaction and the total charge is more than \$4.00 (excluding GST), RST applies to the full amount of the transaction.

Soft drinks are taxable when sold alone. **RST Guide 500 - Food Products** outlines items that qualify for exemption as food products and **RST Guide 501 - Snack Foods, Beverages and Candies** provides information on items that are taxable as snack foods, beverages and candies.

Eating Establishments

Eating establishments are places that sell prepared foods for immediate consumption or take-out and includes:

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| <ul style="list-style-type: none"> • cocktail lounges, taverns and bars • coffee shops, lunch counters and snack bars • convenience or grocery stores that provide areas where prepared food products are sold (see below) • convention centres • dining rooms and cafeterias • doughnut and muffin shops • eating areas on a watercraft, train or aircraft • hotels, motels and lodging houses | <ul style="list-style-type: none"> • locations where food is catered • pizzerias • private or social clubs and Legion halls • restaurants, including drive-ins • similar places or establishments where prepared foods are provided • snack bars at places such as fairs, exhibitions, sporting events, cinemas and theatres • take-out stores and home-delivery outlets • vending machines and coffee wagons. |
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Stores with Eating Establishments Some establishments that sell tax-exempt foods, such as grocery stores and convenience stores, may also provide areas where taxable prepared foods are sold. For example, some stores have an area where they sell sandwiches, salads and hot foods, such as soup and barbecued chicken. This area only is considered an eating establishment and Retail Sales Tax (RST) applies to food sold in this area if the total charge is more than \$4.00. However, RST does not apply to the tax-exempt food products available elsewhere in the store.

Bakeries Bakeries that sell beverages are considered to be operating an eating establishment. The sale of five or fewer pastries, with or without beverages, is considered the sale of prepared foods and is taxable if the total charge is more than \$4.00. However, customers who buy more than five pastries, with or without beverages, are not required to pay RST on the baked goods. When sold in such quantities, the baked goods qualify for exemption as food products.

RST Application

General Prepared foods sold by eating establishments are taxable at the rate of 8 per cent when the total charge in any one transaction is more than \$4.00. RST is calculated on the total sale excluding GST. Since the federal government allows vendors the option of using GST-included pricing when billing customers, RST does not apply unless the GST-included price for prepared foods is more than \$4.20 (\$4.00 + 5% GST). The RST charged on prepared foods must be shown separately on the customer's bill unless every item on the menu is more than \$4.00. In these cases, RST-included pricing may be used. See **RST Guide 208 – Tax-Included Pricing** for more information.

Group Billing A vendor cannot average the total charge among the number of people in a group to avoid collecting RST. RST applies to the full amount of the group's bill when it is more than \$4.00.

Delivery When prepared foods are delivered to customers, RST applies to the total amount, including any amount charged for delivery, if the total is more than \$4.00.

Discount Coupons An eating establishment may issue discount coupons or enter into a co-promotion with other vendors. In these instances, the eating establishment must charge RST if, after deducting the value of the coupon, the net amount to be paid by the customer is more than \$4.00. When the coupon offers two meals for the price of one, RST is to be collected if the net price to be paid is more than \$4.00. See **RST Guide 511 - Discount Coupons** for more information.

Vending Machines Vendors who sell prepared foods from vending machines must post a sign notifying customers that the prices either include the applicable 8% RST, or state the amount of RST-included in each price. Please refer to **RST Guide 208 - Tax-Included Pricing** for more information.

Alcoholic Beverages Charges for prepared foods must be shown separately from those for alcoholic beverages. RST-included pricing may be used for alcoholic beverages as outlined in **RST Guide 302 - Alcoholic Beverages**.

Gratuities

Vendors of prepared foods may add a mandatory service or gratuity charge to their bill in lieu of a gratuity that is normally paid at the discretion of the customer. Retail Sales Tax (RST) is not payable on these service charges provided they fall within percentages normally accepted by the industry, but should not exceed 20%. These charges must be shown separately on the customer's bill.

Meals Served On Airplanes and Cruise Vessels

- Airplanes** RST does not apply to prepared foods that are served on commercial aircraft while in flight.
- Cruise Vessels** Operators of cruise vessels are required to collect RST on prepared foods sold for more than \$4.00. If the cost of prepared foods is included in the cruise fee, the cruise vessel is considered the purchaser and is required to pay RST for prepared foods costing more than \$4.00 that are provided to passengers.
- Some cruise vessels have docking rights outside Ontario and may be liable for tax to another jurisdiction for any meals or prepared foods served during the cruise. In these instances, RST does not apply to prepared foods served during the cruise, provided the cruise vessel retains proof that taxes required in another jurisdiction have been paid.

Meals for Employees

- Free Meals** Employers are exempt from paying RST on meals provided free or without specific charge to their employees in an eating establishment operated by or on behalf of the employer. The employees' meals can be prepared in the cafeteria or prepared off-site in any location the caterer is contracted to manage.
- Sold Meals** Where meals are sold to employees, RST must be paid if the total charge is more than \$4.00. The RST is to be charged at the time of sale (i.e., when tickets are sold or when payroll deductions for the meals are made).
- Subsidized Meals** When an employer subsidizes employee meals served in eating establishments operated by or on behalf of the employer, the RST must be paid by the employees only if the price paid by employees is more than \$4.00. Neither the employer nor the employees are required to pay RST on the subsidy portion.

Free Meals to Non-Employees

- Tax Accounting Options** Eating establishments are responsible for paying the applicable RST on meals provided free to someone who is not their employee. An eating establishment has the option of using either actual cost of the free meal or 60 per cent of the normal selling price to determine if the value of the meal is more than \$4.00. Only one option is to be selected by an eating establishment and used consistently for all free meals given away during the fiscal year. This applies to all eating establishments whether they are open to the general public, (i.e., restaurants and pubs) or are operated by an employer for the benefit of employees and/or clients (i.e., financial institutions, stores and factories) in respect of meals that are provided free to someone other than their employees.
- Free Alcohol** An eating establishment must pay Retail Sales Tax (RST) at the rate of 12 per cent on all alcoholic beverages taken from inventory for own use or given away free of charge. RST is payable on either the actual cost or 50 per cent of the normal selling price. The option chosen must be used consistently during the fiscal year.
- The RST payable on free meals and alcoholic beverages is to be reported on Line 3, (Tax Payable for Own Use), of the RST return.

Exemptions

Prepared foods served without specific charge to the following people are exempt from RST:

- foreign diplomats and similar dignitaries in possession of an identity card issued by the federal government, and also diplomatic missions and foreign embassies. See **RST Guide 803 - Foreign States, Representatives and Officials** for more information.
- infants attending day care centres without cafeterias
- inmates of correctional institutions
- patients in hospitals (however, any charges more than \$4.00 for extra or special meals are taxable)
- people who are needy or poor in missions and other shelters
- residents of nursing homes and homes for the aged.

Status Indians

Status Indians who are in possession of a Certificate of Indian Status identity card authorized by the Department of Indian Affairs and Northern Development (Canada) are not required to pay RST on prepared food provided the eating establishment delivers the prepared food to a reserve address or serves the prepared foods on a reserve.

However, Status Indians are required to pay RST on purchases of take-out meals and all prepared foods costing more than \$4.00 when these prepared foods are:

- consumed on the premises of the eating establishment
- picked up by the Status Indian for consumption on or off the reserve, or
- delivered to an address off the reserve.

School Meal Plans

Students who receive meals under a meal plan are not required to pay RST. A “meal plan” means an arrangement whereby a student enrolled at an educational institution (i.e. university, college and school) is entitled to acquire at least 40 meals consisting of prepared food products over a minimum period of four weeks at a total non-refundable cost to the student of at least \$120. In addition, the student must pay a single comprehensive price or must deposit funds in an account with the educational institution. The price of meals purchased by the student is to be deducted from this account. No RST applies to the charge made for the meal plan if the eating establishment is operated by or on behalf of the educational institution and if the eating establishment is located on the premises of the educational institution.

Snack foods are not considered prepared foods. Students are required to pay RST on the purchase of snack food items, as well as on any other taxable goods.

Special Programs

RST does not apply to prepared foods sold for a nominal charge to senior citizens, people who are underprivileged, or people who, because of age or an infirmity, require support through drop-in centres and programs such as Meals on Wheels.

Legislative References

Retail Sales Tax Act, paragraph 7(1)1

Regulation 1012 under the *Retail Sales Tax Act*, section 12

Regulation 1013 under the *Retail Sales Tax Act*, section 1, and 22.1

For More Information

The information in this publication is only a guideline and does not replace the legislation. To obtain the most current version of this guide or additional information, please contact the Ontario Ministry of Revenue at 1 866 ONT-TAXS (1 866 668-8297), Teletypewriter (TTY) 1 800 263-7776, or visit our website at ontario.ca/revenue.

*Ce guide est disponible en français sous le nom « Aliments préparés, n° 300F ».
Vous pouvez obtenir un exemplaire en appelant le 1-866 ONT-TAXS (1 866 668-8297).*



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